

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

VON BORSTEL Atty. Ref.: 1331-334; Confirmation No. 3848

Appl. No. 09/763,955 TC/A.U. 1623

For: COMPOSITIONS AND METHODS FOR TREATMENT OF MITOCHONDRIAL DISEASES

* * * * * * * * * *

September 27, 2010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE

This is in response to the Official Action mailed April 21,2008 in light of the Decision on Appeal mailed July 26, 2010.

I. DOUBLE PATENTING

In response to the provisional obviousness-type double patenting rejection, and without conceding thereto, attached is a terminal disclaimer executed by the undersigned, together a RCE and the requisite fees. A copy of the executed assignment for this case, submitted for recordal today with the Assignment Branch, is

VON BORSTEL
Appl. No. 09/763,955
September 27, 2010

also presented herewith. Withdrawal of the obviousness-type double patenting rejection is respectfully requested.

II. INFORMATION DISCLOSURE STATEMENTS

Several Information Disclosure Statements, beginning with the one filed on November 15, 2007, have been submitted for consideration in this case but have not yet been made of record. It is respectfully requested that all Information Disclosure Statements which have not been considered be entered and made of record in this case.

III. INTERVIEW

The present case was discussed with the Examiner (Dr. Lewis) on September 27, 2010, during which the procedure going forward was discussed. The Examiner is thanked for taking the time to discuss the case.

Favorable action is awaited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Leonard C. Mitchard/

Leonard C. Mitchard
Reg. No. 29,009

LCM:lfm
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100